



General Assembly

January Session, 2005

Amendment

LCO No. 7485

SB0009407485SD0

Offered by:

SEN. DEFRONZO, 6th Dist.

To: Subst. Senate Bill No. 94

File No. 541

Cal. No. 91

**"AN ACT CONCERNING REFORM OF THE STATE CONTRACTING
PROCESS."**

1 Strike everything after the enacting clause and substitute the
2 following in lieu thereof:

3 "Section 1. (NEW) (*Effective July 1, 2005*) For purposes of sections 2
4 to 10, inclusive, 14 and 15 of this act:

5 (1) "Procurement" means contracting for, buying, purchasing,
6 renting, leasing or otherwise acquiring or disposing of, any supplies,
7 services, including but not limited to, contracts for purchase of services
8 and personal service agreements, interest in real property, or
9 construction, and includes all government functions that relate to such
10 activities, including best value selection and qualification based
11 selection.

12 (2) "Emergency procurement" means procurement by a state agency
13 that is made necessary by a sudden, unexpected occurrence that poses
14 a clear and imminent danger to public safety or requires immediate

15 action to prevent or mitigate the loss or impairment of life, health,
16 property or essential public services or in response to a court order,
17 settlement agreement or other similar legal judgment.

18 (3) "Best value selection" means a contract selection process in which
19 the award of a contract is based on a combination of quality and cost
20 considerations.

21 (4) "Qualification based selection" means a contract selection process
22 in which the award of a contract is primarily based on an assessment
23 of contractor qualifications and on the negotiation of a fair and
24 reasonable price.

25 (5) "State contracting agency" means any state agency or political
26 subdivision of the state, other than the State Contracting Standards
27 Board, as established pursuant to section 2 of this act, that is
28 authorized by law to enter into contracts, including, but not limited to,
29 any quasi-public agency, as defined in section 1-120 of the general
30 statutes, and any state agency, as defined in section 4a-50 of the
31 general statutes, that receives state funds. State contracting agency
32 does not include the Judicial Department or the Joint Committee on
33 Legislative Management.

34 (6) "Contractor" means any person or entity bidding on, submitting
35 a proposal for, applying for or participating as a subcontractor for, a
36 transaction, procurement or contract described in section 3 of this act,
37 including, but not limited to, a small contractor, minority business
38 enterprise, organization providing products and services by persons
39 with disabilities, as described in section 17b-656 of the general statutes,
40 and an individual with a disability, as defined in section 4a-60g of the
41 general statutes.

42 (7) "Contract risk assessment" means (A) the identification and
43 evaluation of loss exposures and risks, including, but not limited to,
44 business and legal risks associated with the contracting process and
45 the contracted goods and services, and (B) the identification,
46 evaluation and implementation of measures available to minimize

47 potential loss exposures and risks.

48 (8) "Privatization contract" means an agreement or series of
49 agreements between a state contracting agency and a person, in which
50 such person agrees to provide services valued at five hundred
51 thousand dollars or more over the life of the contract that are
52 substantially similar to and in lieu of services provided, in whole or in
53 part, by employees of such agency or by employees of another state
54 agency for such state agency and that results in the layoff, transfer or
55 reassignment of any state employee. "Privatization contract" does not
56 include the renewal, modification, extension or rebidding of a
57 privatization agreement in effect on or before the effective date of this
58 section, an agreement to only provide legal services, litigation support
59 or management or financial consulting or a consultant-services
60 agreement to provide professional architectural or design services on a
61 project-by-project basis for only a period of time.

62 (9) "Comparative costs" means a comparison of the costs of entering
63 into a privatization contract to the costs of the state continuing to
64 provide the services that are the subject of the privatization contract,
65 using a comparative costs methodology.

66 (10) "Comparative costs analysis" means an examination of all direct
67 and indirect costs to the state and an examination of the effect of a
68 proposed privatization contract on the public health and safety of
69 residents of the state who may utilize such privatized service.

70 (11) "Purchase of service agreement" means any contract between a
71 state agency and a nonprofit agency, partnership or corporation for the
72 purchase by the state of ongoing and routine health and human
73 services for clients of the Departments of Social Services, Children and
74 Families, Mental Retardation, Mental Health and Addiction Services,
75 Public Health and Correction which is overseen by the Office of Policy
76 and Management.

77 (12) "Rebidding" means a state contracting agency's requesting of
78 proposals or qualifications for a contract to provide goods or services

79 that are specific to an existing facility or program provided such goods
80 or services are being provided under a contract in effect as of July 1,
81 2005.

82 Sec. 2. (NEW) (*Effective July 1, 2005*) (a) There is established a State
83 Contracting Standards Board that shall consist of nine members
84 appointed as follows: Five members shall be appointed by the
85 Governor, two members shall be appointed by the speaker of the
86 House of Representatives and two members shall be appointed by the
87 president pro tempore of the Senate whenever the Governor is of a
88 different political party than that which controls both houses of the
89 General Assembly; five members shall be appointed by the Governor
90 and four members appointed by the highest ranking leader of the
91 opposing party of the applicable house of the General Assembly
92 whenever the political party of the Governor also controls only one of
93 the houses of the General Assembly; five members shall be appointed
94 by the Governor, two members by the minority leader of the House of
95 Representatives and two members by the minority leader of the Senate
96 whenever the political party of the Governor controls both houses of
97 the General Assembly; and five members by the Governor, two
98 members by the speaker of the House of Representatives and two
99 members by the president pro tempore of the Senate whenever the
100 Governor is an independent. Each member shall be appointed in
101 accordance with the provisions of section 4-7 of the general statutes
102 and have demonstrated sufficient knowledge by education, training or
103 experience in several of the following enumerated areas: (1)
104 Procurement; (2) contract negotiation, selection and drafting; (3)
105 contract risk assessment; (4) requests for proposals and real estate
106 transactions; (5) business insurance and bonding; (6) the code of ethics;
107 (7) federal and state statutes, policies and regulations; (8) outsourcing
108 and privatization proposal analysis; (9) small and minority business
109 enterprise development; and (10) personnel and union management.
110 Such education, training or experience shall have been acquired over
111 not less than a continuous five-year period and shall have been
112 acquired within the ten-year period preceding such appointment.

113 Nothing in this section shall be construed to prohibit an appointing
114 authority from selecting a member of the general public who has
115 demonstrated an interest in governmental ethics and integrity to serve
116 on the board as such appointing authority's appointee. The
117 chairperson of the board shall be appointed by the members of the
118 board. The terms of the members shall be coterminous with the terms
119 of the appointing authority for each member. If any vacancy occurs on
120 the board, the appointing authorities having the power to make the
121 appointment under the provisions of this subsection shall appoint a
122 person in accordance with the provisions of this subsection.

123 (b) The State Contracting Standards Board shall be an independent
124 body within the Executive Department.

125 (c) The chairperson of the board shall be compensated two hundred
126 dollars per diem up to a maximum of thirty thousand dollars annually.
127 Other members of the board shall be compensated two hundred
128 dollars per diem up to a maximum of twenty-five thousand dollars
129 annually. No person shall serve on the board who holds another state
130 or municipal governmental position and no person on the board nor
131 any spouse, child, stepchild, parent or sibling of such person shall be
132 directly or indirectly involved in any enterprise that does business
133 with the state.

134 (d) The Governor shall appoint an executive director who shall
135 serve as an ex-officio, nonvoting member of the board. The executive
136 director shall be appointed in accordance with the provisions of
137 section 4-7 of the general statutes and may be removed from office for
138 reasonable cause, in accordance with chapter 67 of the general statutes.
139 The board shall, annually, conduct a performance evaluation of such
140 executive director.

141 (e) The board may employ secretaries, real estate examiners,
142 contract specialists, forensic fraud examiners, property and
143 procurement specialists, paralegals, attorneys and such other
144 employees as the board deems necessary, all of whom shall be in the

145 state classified service.

146 (f) The reasonable expenses of the State Contracting Standards
147 Board and its employees shall be paid from the budget of the board
148 upon the approval of the board.

149 (g) No employee of the State Contracting Standards Board shall
150 hold another state or municipal position, nor shall any such employee
151 or any nonclerical employee or any spouse, child, stepchild, parent or
152 sibling of such employee of the board be directly or indirectly involved
153 in any enterprise that does business with the state. Each member and
154 employee of the State Contracting Standards Board shall file, with the
155 board and with the State Ethics Commission, a financial statement
156 indicating all sources of business income of such person in excess of
157 one thousand dollars, and the name of any business with which such
158 member or employee is associated, as defined in subsection (b) of
159 section 1-79 of the general statutes. Such statement shall be a public
160 record. Financial statements for the preceding calendar year shall be
161 filed with the commission on or before April fifteenth of each year if
162 such employee or member held such a position during the preceding
163 calendar year.

164 (h) Any violation of the provisions of subsection (c) or (g) of this
165 section shall constitute a violation of part I of chapter 10 of the general
166 statutes and may be the subject of a complaint and investigation filed
167 and conducted in accordance with the provisions of section 1-82 of the
168 general statutes.

169 (i) The board shall adopt such rules as it deems necessary for the
170 conduct of its internal affairs, in accordance with section 4-167 of the
171 general statutes, including, but not limited to, rules of procedure for
172 any appeal taken pursuant to section 10 of this act and any review
173 undertaken pursuant to section 12 of this act.

174 (j) Six members of the board shall constitute a quorum which shall
175 be required for the transaction of business by the board.

176 Sec. 3. (NEW) (*Effective July 1, 2005*) (a) On or before January 1, 2007,
177 the State Contracting Standards Board shall prepare a uniform
178 procurement code applicable to state contracting agency expenditures,
179 including, but not limited to, expenditures: (1) By municipalities that
180 receive state funds, (2) involving any state contracting and
181 procurement processes, including, but not limited to, leasing and
182 property transfers, purchasing or leasing of supplies, materials or
183 equipment, as defined in section 4a-50 of the general statutes,
184 consultant or consultant services, as defined in section 4b-55 of the
185 general statutes, personal service agreements, as defined in section 4-
186 212 of the general statutes, purchase of service agreements or
187 privatization contracts, and (3) relating to contracts for the
188 construction, reconstruction, alteration, remodeling, repair or
189 demolition of any public building. Nothing in this section shall be
190 construed to require the application of uniform procurement code
191 procedures when such procurement involves the expenditure of
192 federal assistance or contract funds and federal law provides
193 applicable procurement procedures.

194 (b) The uniform procurement code described in subsection (a) of
195 this section shall be designed to: (1) Establish uniform contracting
196 standards and practices among the various state contracting agencies;
197 (2) simplify and clarify the state's laws governing contracting
198 standards and procurement policies and practices, including, but not
199 limited to, procedures for competitive sealed bids, competitive sealed
200 proposals, small purchases, sole source procurements, emergency
201 procurements and special procurements; (3) ensure the fair and
202 equitable treatment of all businesses and persons who deal with the
203 procurement system of the state; (4) include a process to maximize the
204 use of small contractors and minority business enterprises, as defined
205 in section 4a-60g of the general statutes; (5) provide increased economy
206 in state procurement activities and maximize purchasing value to the
207 fullest extent possible; (6) ensure that the procurement of supplies,
208 materials, equipment, services, real property and construction required
209 by any state contracting agency is obtained in a cost-effective and

210 responsive manner; (7) preserve and maintain the existing contracting,
211 procurement, disqualification and termination authority and discretion
212 of any state contracting agency when such contracting and
213 procurement procedures represent best practices; (8) include a process
214 to improve contractor and state contracting agency accountability; (9)
215 include standards by which state contracting agencies must evaluate
216 proposals to privatize state or quasi-public agency services and
217 privatization contract bid proposals, such standards shall, at a
218 minimum, include: (A) A requirement for a comparative costs analysis
219 to be completed prior to any state or quasi-public agency decision to
220 privatize services, (B) adequate notification requirements to affected
221 employees and, where applicable, certified bargaining agents, (C) a
222 requirement for the preparation of an employee impact statement
223 including measures to be taken by the bidder to retain qualified state
224 and quasi-public agency employees, (D) a provision requiring state
225 agencies and quasi-public agencies to provide adequate information
226 and resources to their employees for the purpose of encouraging and
227 assisting such state or quasi-public employees to organize and submit
228 a bid to provide the services that are the subject of such privatization
229 contract, (E) a requirement that bidders disclose all relevant
230 information pertaining to past performance, pending or concluded
231 legal or regulatory proceedings or complaints, including, but not
232 limited to, compliance with fair employment practices and
233 nondiscrimination standards, as described in section 46a-60 of the
234 general statutes, and compliance with federal fair employment and
235 nondiscrimination standards, and (F) a requirement that the contractor
236 pay any applicable minimum wage rate; (10) establish standards for
237 leases and lease-purchase agreements and for the purchase and sale of
238 real estate; and (11) provide a process for competitive sealed bids,
239 competitive sealed proposals, small purchases, sole source
240 procurements, emergency procurements, special procurements, best
241 value selection, qualification based selection and the conditions for
242 their use.

243 (c) In preparing the uniform procurement code described in

244 subsection (a) of this section, the State Contracting Standards Board
245 shall conduct a comprehensive review of existing state contracting and
246 procurement laws, regulations and practices and shall utilize existing
247 procurement procedures and guidelines that the board deems
248 appropriate.

249 (d) Upon request by the State Contracting Standards Board, each
250 state contracting agency engaged in procurement shall provide the
251 board, in a timely manner, with such procurement information as the
252 board deems necessary. The board shall have access to all information,
253 files and records related to any state contracting agency in furtherance
254 of this purpose. Nothing in this section shall be construed to require
255 the board's disclosure of documents that are exempt from disclosure
256 pursuant to chapter 14 of the general statutes or that may be protected
257 from disclosure under claim of an attorney-client privilege.

258 (e) Such uniform procurement code shall be submitted to the
259 General Assembly for its approval. The board shall file such code with
260 the clerks of the House of Representatives and the Senate not later than
261 January 15, 2007, and not later than January 20, 2007, the speaker of the
262 House of Representatives and the president pro tempore of the Senate
263 shall submit such code to the joint standing committee of the General
264 Assembly having cognizance of matters relating to government
265 administration and elections. Said committee shall hold a public
266 hearing on such code and shall report its recommendations, including
267 any changes thereto, to the House of Representatives and the Senate
268 concerning the approval or rejection of the code. The General
269 Assembly shall take a vote on such code not later than the end of the
270 2007 regular session.

271 Sec. 4. (NEW) (*Effective July 1, 2007*) In addition to the preparation of
272 the uniform procurement code described in section 3 of this act, the
273 duties of the State Contracting Standards Board shall include:

274 (1) Recommending the repeal of repetitive, conflicting or obsolete
275 statutes concerning state procurement;

- 276 (2) Developing, publishing and maintaining the uniform
277 procurement code for all state contracting agencies;
- 278 (3) Assisting state contracting agencies in complying with the code
279 by providing guidance, models, advice and practical assistance to state
280 contracting agency staff relating to: (A) Buying the best service at the
281 best price, (B) properly selecting contractors, and (C) drafting contracts
282 that achieve state goals and protect taxpayers' interest;
- 283 (4) Reviewing and certifying that a state contracting agency's
284 procurement processes are in compliance with the code;
- 285 (5) Triennially, recertifying each state contracting agency's
286 procurement processes and providing agencies with notice of any
287 certification deficiency and exercising authority as provided under
288 section 6 of this act if a determination of noncompliance is made;
- 289 (6) Defining the training requirements for state contracting agency
290 procurement professionals;
- 291 (7) Monitoring implementation of the state contracting portal and
292 making recommendations for improvement to the Department of
293 Administrative Services;
- 294 (8) Defining the contract data retention requirements for state
295 agencies concerning retention of information on: (A) The number and
296 type of state contracts currently in effect state-wide, (B) the dollar
297 value of such contracts, (C) a list of client agencies, (D) a description of
298 services purchased under such contracts, (E) contractor names, and (F)
299 an evaluation of contractor performance, and assuring such
300 information is available on the state contracting portal;
- 301 (9) Providing the Governor and the joint standing committee of the
302 General Assembly having cognizance of matters relating to
303 government administration and elections with recommendations
304 concerning the uniform procurement code; and
- 305 (10) Approving an ethics training course for state employees

involved in procurement and for state contractors and substantial subcontractors who are prequalified pursuant to the provisions of section 4a-100 of the general statutes, as amended by this act. Such ethics training course may be developed and provided by the State Ethics Commission or by any person, firm or corporation provided such course is approved by the State Contracting Standards Board.

Sec. 5. (NEW) (*Effective October 1, 2007*) (a) The State Contracting Standards Board shall triennially conduct audits of state contracting agencies to ensure compliance with the uniform procurement code. In conducting such audit, the State Contracting Standards Board shall have access to all contracting and procurement records, may interview personnel responsible for contracting, contract negotiation or procurement and may enter into an agreement with the State Auditors of Public Accounts to effectuate such audit.

(b) Upon completion of any such audit, the State Contracting Standards Board shall prepare and issue a compliance report for such state contracting agency. Such report shall identify any process or procedure that is inconsistent with the uniform procurement code and indicate those corrective measures the board deems necessary to comply with code requirements. Such report shall be issued and delivered not later than thirty days after completion of such audit and shall be a public record.

(c) After notice and hearing, the State Contracting Standards Board may restrict the authority of any state contracting agency to enter into any contract or procurement agreement if the board, upon a vote of two-thirds of the members of the board present and voting for such purpose, determines that such state contracting agency failed to comply with statutory contracting and procurement requirements, and evidenced a reckless disregard for applicable procedures and policy and such limitation or restriction is in the state's best interest. Such limitation or restriction shall remain in effect until such time as the board determines that such state contracting agency has implemented corrective measures and demonstrated compliance with code

339 requirements.

340 Sec. 6. (NEW) (*Effective October 1, 2007*) For cause, the State
341 Contracting Standards Board may review or terminate any contract or
342 procurement agreement undertaken by any state contracting agency
343 after providing fifteen days notice to the state contracting agency and
344 the applicable contractor, and consulting with the Attorney General.
345 Such termination of a contract or procurement agreement by the board
346 may occur only upon a vote of two-thirds of the members of the board
347 present and voting for that purpose. Such action shall be accompanied
348 by notice to the state contracting agency and any other affected party.
349 For the purpose of this section, "for cause" means: (1) A violation of
350 section 1-84, 1-86e or 4a-100 of the general statutes, as amended by this
351 act, (2) wanton or reckless disregard of any state contracting and
352 procurement process by any person substantially involved in such
353 contract or state contracting agency, or (3) notification from the
354 Attorney General to the state contracting agency that an investigation
355 pursuant to section 4-61dd of the general statutes indicates that the
356 process by which such contract was awarded was compromised by
357 fraud, collusion or other serious ethical improprieties.

358 Sec. 7. (NEW) (*Effective October 1, 2007*) (a) After reasonable notice, a
359 hearing and consultation with the relevant state contracting agency
360 and the Attorney General, the State Contracting Standards Board may
361 disqualify any contractor, for a period of up to five years, from bidding
362 on, applying for, or participating as a subcontractor under, contracts
363 with the state. Such disqualification shall be upon the vote of two-
364 thirds of the members of the board present and voting for that
365 purpose. Such hearing shall be conducted in accordance with chapter
366 54 of the general statutes. The board shall issue a written decision not
367 later than ninety days after the conclusion of such hearing and state in
368 the decision the reasons for the action taken and, if the contractor is
369 being disqualified, the period of such disqualification. The existence of
370 a cause for disqualification, as described in subsection (b) of this
371 section, may not be the sole factor to be considered by the board in
372 determining whether the contractor shall be disqualified. In

373 determining whether to disqualify a contractor, the board shall
374 consider the seriousness of the contractor's acts or omissions and any
375 mitigating factors. The board shall send the decision to the contractor
376 by certified mail, return receipt requested. The written decision shall
377 be a final decision for purposes of sections 4-180 and 4-183 of the
378 general statutes.

379 (b) Causes for such disqualification shall include the following:

380 (1) Conviction of, or entry of a plea of guilty or nolo contendere or
381 admission to, the commission of a criminal offense as an incident to
382 obtaining or attempting to obtain a public or private contract or
383 subcontract, or in the performance of such contract or subcontract;

384 (2) Conviction of, or entry of a plea of guilty or nolo contendere or
385 admission to, the violation of any state or federal law for
386 embezzlement, theft, forgery, bribery, falsification or destruction of
387 records, receiving stolen property or any other offense indicating a
388 lack of business integrity or business honesty which affects
389 responsibility as a state contractor;

390 (3) Conviction of, or entry of a plea of guilty or nolo contendere or
391 admission to, a violation of any state or federal antitrust, collusion or
392 conspiracy law arising out of the submission of bids or proposals on a
393 public or private contract or subcontract;

394 (4) Accumulation of two or more suspensions pursuant to section 8
395 of this act within a twenty-four-month period;

396 (5) A wilful failure to perform in accordance with the terms of one
397 or more contracts;

398 (6) A wilful violation of a statutory or regulatory provision or
399 requirement applicable to a contract;

400 (7) A wilful or egregious violation of the ethical standards set forth
401 in sections 1-84, 1-86e or 4a-100 of the general statutes; or

402 (8) Any other cause the board determines to be so serious and
403 compelling as to affect responsibility as a state contractor, including,
404 but not limited to: (A) Disqualification by another state for cause, (B)
405 the fraudulent, criminal or seriously improper conduct of any officer,
406 director, shareholder or employee of such contractor, provided such
407 conduct occurred in connection with the individual's performance of
408 duties for or on behalf of such contractor and such contractor knew or
409 had reason to know of such conduct, or (C) the existence of an
410 informal or formal business relationship with a contractor who has
411 been disqualified from bidding on state contracts.

412 (c) Upon written request by the affected state contractor, the State
413 Contracting Standards Board may reduce the period or extent of
414 disqualification for a contractor if documentation supporting any of
415 the following reasons for modification is provided to the board by the
416 contractor:

417 (1) Newly discovered material evidence;

418 (2) Reversal of the conviction upon which the disqualification was
419 based;

420 (3) Bona fide change in ownership or management; or

421 (4) Elimination of other causes for which the disqualification was
422 imposed.

423 Sec. 8. (NEW) (*Effective October 1, 2007*) (a) After reasonable notice
424 and a hearing, conducted in accordance with the provisions of chapter
425 54 of the general statutes, a state contracting agency may suspend any
426 contractor for a period of not more than six months from bidding on,
427 applying for or performing work as a subcontractor under, contracts
428 with the agency. The commissioner of any such state contracting
429 agency shall issue a written decision not later than ninety days after
430 the conclusion of such hearing and state in the decision the reasons for
431 the action taken and, if the contractor is being suspended, the period of
432 such suspension. The existence of a cause for suspension, as described

433 in subsection (b) of this section, may not be the sole factor to be
434 considered by the agency in determining whether the contractor shall
435 be suspended. In determining whether to suspend a contractor, the
436 state contracting agency shall consider the seriousness of the
437 contractor's acts or omissions and any mitigating factors. The
438 commissioner of the state contracting agency shall send such decision
439 to the contractor by certified mail, return receipt requested. Such
440 decision shall be a final decision for purposes of sections 4-180 and 4-
441 183 of the general statutes.

442 (b) Causes for such suspension shall include the following:

443 (1) Failure without good cause to perform in accordance with
444 specifications or within the time limits provided in the contract;

445 (2) A record of failure to perform or of unsatisfactory performance
446 in accordance with the terms of one or more contracts, provided failure
447 to perform or unsatisfactory performance caused by acts beyond the
448 control of the contractor shall not be considered to be a basis for
449 suspension;

450 (3) Any cause the state contracting agency determines to be so
451 serious and compelling as to affect the responsibility of a state
452 contractor, including suspension by another state contracting agency
453 for cause; or

454 (4) A violation of the ethical standards set forth in sections 1-84, 1-
455 86e and 4a-100 of the general statutes.

456 (c) The state contracting agency may grant an exception permitting
457 a suspended contractor to participate in a particular contract or
458 subcontract upon a written determination by the commissioner of the
459 state contracting agency that there is good cause for such exception
460 and that such exception is in the best interest of the state.

461 Sec. 9. (NEW) (*Effective October 1, 2007*) (a) Any bidder on a state
462 contract may contest the solicitation or award of a contract to the

463 commissioner of the state agency that awarded such contract. Such
464 contest shall be submitted, in writing, not later than fourteen days after
465 such bidder knew or should have known of the facts giving rise to
466 such contest and shall be limited to the procedural elements of the
467 solicitation or award process, or claims of an unauthorized or
468 unwarranted, noncompetitive selection process.

469 (b) The commissioner of such state contracting agency, or the
470 commissioner's designee, shall have the authority to settle and resolve
471 any such contest.

472 (c) In the event such contest is not resolved by mutual agreement,
473 the commissioner of a state contracting agency, or the commissioner's
474 designee, shall issue a decision, in writing, not later than thirty days
475 after receipt of any such contest. Such decision shall:

476 (1) Describe the procedure used by such agency in soliciting and
477 awarding such contract;

478 (2) Indicate such agency's finding as to the merits of such bidder's
479 contest; and

480 (3) Inform such bidder of the right to review, as provided in section
481 10 of this act.

482 (d) A copy of such decision shall be provided to such bidder.

483 Sec. 10. (NEW) (*Effective October 1, 2007*) (a) Any bidder may appeal
484 a decision issued by the commissioner of a state contracting agency, or
485 the commissioner's designee, pursuant to subsection (c) of section 9 of
486 this act to the State Contracting Standards Board.

487 (b) Any such request for review shall be filed with the board not
488 later than fourteen days after such bidder's receipt of a decision issued
489 pursuant to subsection (c) of section 9 of this act. Such bidder shall set
490 forth the facts supporting its claim in sufficient detail for the State
491 Contracting Standards Board to determine whether the procedural
492 elements of the solicitation or award failed to comply with the code or

493 whether an unauthorized or unwarranted, noncompetitive selection
494 process was utilized.

495 (c) Any appeal filed pursuant to subsection (b) of this section shall
496 not be deemed to prohibit the award or execution of any such
497 contested contract.

498 (d) The State Contracting Standards Board shall create a three-
499 member appeals review subcommittee, which shall review any request
500 filed pursuant to subsection (b) of this section and decide whether such
501 solicitation or award was in compliance with the code, and whether
502 allegations of an unauthorized or unwarranted, noncompetitive
503 selection process have been demonstrated. A unanimous vote of such
504 subcommittee shall be dispositive of any such appeal. A split vote of
505 such subcommittee shall result in a review of the appeal by the full
506 membership of the board which, by a vote of two-thirds of its
507 members present and voting for such purpose, shall decide whether
508 the solicitation or award of such contract was in compliance with the
509 code and whether allegations of an unauthorized or unwarranted,
510 noncompetitive selection process have been demonstrated.

511 (e) Such appeals subcommittee shall issue a written decision or take
512 other appropriate action on each appeal not later than ninety days after
513 the filing of such appeal. A written copy of any such decision shall be
514 provided to such bidder.

515 (f) In the event of an appeal review by the full board, the board shall
516 issue a written decision or take other appropriate action on such
517 appeal not later than ninety days after receipt of the appeal from the
518 appeals subcommittee. A written copy of any such decision shall be
519 provided to such bidder.

520 (g) In the event that the appeals subcommittee or the board
521 determines that a procedural violation occurred, or that allegations of
522 an unauthorized or unwarranted, noncompetitive selection process
523 have been demonstrated, the board shall direct the state contracting
524 agency to take corrective action not later than thirty days after the date

525 of the subcommittee's or board's decision, as applicable.

526 (h) In the event such appeal is found to be frivolous by the appeals
527 review subcommittee or the full board, such frivolous appeal may
528 serve as a basis for disqualification pursuant to section 7 of this act.

529 (i) Any three members of the board may request a full board review
530 of any contract deliberation or award process of a state contracting
531 agency.

532 (j) A decision issued by the board or appeals subcommittee under
533 this section shall be final and not subject to appeal under sections 4-180
534 and 4-183 of the general statutes.

535 Sec. 11. (NEW) (*Effective October 1, 2007*) There is established a
536 Contracting Standards Advisory Council, which shall consist of nine
537 state contracting agency representatives designated by the Governor,
538 including at least one representative from each of the following: The
539 Department of Administrative Services, the Department of
540 Transportation and the Department of Public Works. The advisory
541 council shall meet at least once a year to discuss problems with
542 procurement processes and to make recommendations for
543 improvements to the State Contracting Standards Board. The advisory
544 council may conduct studies, research and analyses and make reports
545 and recommendations with respect to subjects or matters within the
546 jurisdiction of the State Contracting Standards Board.

547 Sec. 12. (NEW) (*Effective July 1, 2005*) (a) On and after October 1,
548 2007, the powers, duties, obligations and other governmental functions
549 of the State Properties Review Board, established under subsection (a)
550 of section 4b-3 of the general statutes, shall transfer to the State
551 Contracting Standards Board, established under section 2 of this act.
552 The powers, duties, obligations and other governmental functions of
553 the State Properties Review Board, shall thereafter vest in the State
554 Contracting Standards Board, in accordance with the provisions of
555 sections 4-38d and 4-39 of the general statutes.

556 (b) On or before October 1, 2007, the State Contracting Standards
557 Board shall establish a three-member subcommittee of the board to be
558 known as the state properties review subcommittee to perform the
559 duties described under subsection (a) of this section. The
560 subcommittee shall perform the duties established under subsection
561 (a) of this section in accordance with the rules and procedures
562 established by the board pursuant to subsection (i) of section 2 of this
563 act. The State Contracting Standards Board shall constitute a successor
564 department to the State Properties Review Board in accordance with
565 the provisions of sections 4-38d and 4-39 of the general statutes.

566 Sec. 13. Subsection (i) of section 4b-91 of the general statutes is
567 repealed and the following is substituted in lieu thereof (*Effective from*
568 *passage*):

569 (i) [In the event that the] The General Assembly [approves] may
570 approve legislation authorizing an exception to the competitive
571 bidding process for a project, provided such legislation is approved, in
572 whole, by a two-thirds vote of the members of each house of the
573 General Assembly. If rejected, the legislation proposing an exception
574 for such project shall not be valid and shall not be implemented. The
575 legislation shall be deemed rejected if the General Assembly fails to
576 vote to approve or reject the legislation (1) prior to the adjournment of
577 the regular session of the General Assembly during which the
578 legislation is filed, (2) prior to the adjournment of the next regular
579 session of the General Assembly following the date on which the
580 legislation is filed if the General Assembly is not in regular session on
581 such date, or (3) prior to the adjournment of a special session convened
582 before the next regular session of the General Assembly for the
583 purpose of considering the legislation if the General Assembly is not in
584 regular session on the date on which the legislation is filed. However,
585 if the legislation is filed less than thirty days before the end of a regular
586 session, the General Assembly may vote to approve or reject the
587 legislation (A) not later than thirty days after the first day of a special
588 session convened before the next regular session of the General
589 Assembly for the purpose of considering the legislation, or (B) not later

590 than thirty days after the first day of the next regular session of the
591 General Assembly. In the event that the General Assembly approves
592 legislation authorizing an exception to the competitive bidding process
593 for a project, the State Properties Review Board shall complete a
594 review of the contract for such project and approve or disapprove such
595 contract no later than thirty days after the Commissioner of Public
596 Works submits such contract to the board. Such review shall be
597 conducted in accordance with the provisions of section 4b-3. On and
598 after October 1, 2007, such review shall be conducted by the
599 subcommittee of the State Contracting Standards Board established
600 under subsection (b) of section 12 of this act. In the event that such
601 review does not occur within the thirty-day period prescribed by this
602 subsection, such contract shall be deemed to be approved.

603 Sec. 14. (NEW) (*Effective from passage*) (a) From the effective date of
604 this section, until June 30, 2007, no state agency may enter into a
605 privatization contract. From June 30, 2007, until July 1, 2009, any
606 privatization contract entered into by a state agency shall include the
607 following provisions:

608 (1) The contractor shall offer available employee positions pursuant
609 to the contract to qualified regular employees of the agency whose
610 state employment is terminated because of such privatization contract
611 provided such employees satisfy the hiring criteria of the contractor;

612 (2) The contractor shall not engage in discriminatory employment
613 practices, as described in section 46a-60 of the general statutes, and
614 shall take affirmative steps to provide such equal opportunity for all
615 such persons;

616 (3) The contractor shall submit to performance audits of such
617 contract by the Auditors of Public Accounts on a periodic basis, as
618 determined by the Auditors of Public Accounts;

619 (4) The contractor shall pay a minimum wage rate for employee
620 positions with duties that are substantially similar to the duties
621 performed by a regular agency, which rate shall be the lesser of step

622 one of the grade or classification under which the comparable regular
623 agency employee is paid, or the standard private sector wage rate for
624 said position as determined by the Labor Commissioner in accordance
625 with section 31-57f of the general statutes;

626 (5) Such contract shall not become effective until the contractor and
627 the state agency have complied with the provisions of this act and the
628 procurement code adopted in accordance with section 3 of this act;

629 (6) The contractor shall submit quarterly payroll records to the
630 Labor Department, listing the name, address, Social Security number,
631 hours worked and the hourly wage paid for each employee in the
632 previous quarter.

633 (b) Such state agency shall submit such contract to the State
634 Contracting Standards Board who shall maintain such contract as a
635 public document. Such state agency shall simultaneously submit to the
636 board the following information:

637 (1) A certification that the state agency has complied with all the
638 requirements of the state agency contained in this act, and that the
639 privatization contract meets the standards for such contracts under the
640 procurement code adopted in accordance with section 3 of this act;

641 (2) A state agency analysis of the quality of the services to be
642 provided by the designated bidder for the purpose of assuring that the
643 quality of services provided by the bidder will not be less than that
644 provided by regular agency employees;

645 (3) A certification by the designated bidder that the bidder and its
646 supervisory employees, while in the employ of the designated bidder,
647 have no adjudicated record of repeated wilful noncompliance with any
648 relevant federal or state regulatory law including, but not limited to,
649 laws concerning labor relations, occupational safety and health,
650 nondiscrimination and affirmative action, environmental protection
651 and conflicts of interest; and

652 (4) A description of why the proposed privatization contract is in
653 the public interest.

654 (c) Any employees, or collective bargaining agent of any employee
655 adversely affected by any proposed privatization contract filed with
656 the board may file a motion for an order to show cause in the superior
657 court for the judicial district of Hartford claiming that such contract
658 fails to comply with the substantive or procedural requirements of this
659 act. A ruling on any such motion may: (1) Deny the motion, if the court
660 finds that all procedural and substantive provisions of this act have
661 been complied with; (2) grant the motion if the court finds that the
662 proposed contract would substantively violate the provisions of this
663 act; or (3) stay the effective date of the contract until any procedural or
664 substantive defect found by the court has been corrected.

665 (d) (1) Notwithstanding the provisions of subsection (a) of this
666 section, in the event that the uniform procurement code required by
667 section 3 of this act is approved by the General Assembly and signed
668 into law on or before June 30, 2007, the provisions of subsections (a)
669 and (b) of this section shall no longer apply to any privatization
670 contract executed in accordance with such uniform procurement code.

671 (2) Notwithstanding the provisions of subsection (a) of this section,
672 in the event that the uniform procurement code required by section 3
673 of this act is not approved by the General Assembly, on or before June
674 30, 2007, the provisions of subsections (a) and (b) of this section shall
675 not apply to any privatization contract approved by a two-thirds vote
676 of the membership of the Contracting Standards Board.

677 (3) Notwithstanding the provisions of subsection (a) of this section,
678 in the event that the uniform procurement code required by section 3
679 of this act is approved by the General Assembly but not signed into
680 law on or before June 30, 2007, no state agency may enter into a
681 privatization contract from June 30, 2007, to July 1, 2009, unless a
682 uniform procurement code is approved by the General Assembly and
683 signed into law during such period of time or such contract constitutes

684 an emergency procurement, as defined in section 1 of this act.

685 Sec. 15. (NEW) (*Effective from passage*) The Office of Policy and
686 Management shall establish procedures for use by state agencies when
687 entering purchase of service agreements that shall provide for the
688 payment of fifty per cent of any unexpended funds allocated for such
689 contract to the contracting nonprofit agency, partnership or
690 corporation at the end of such contract, provided the services rendered
691 under such contract meet the contracted requirements for number,
692 type and quality of services and there is either an agreed upon price
693 for such services, a set cost for such services or a flat grant for an
694 agreed upon level of services.

695 Sec. 16. (NEW) (*Effective from passage*) (a) Notwithstanding any
696 provision of the general statutes, any contract for legal services
697 between a state agency and any person, firm or corporation that is
698 entered into on or after January 1, 2006, and that will or that can
699 reasonably be expected to result in attorney's fees, including, but not
700 limited to, contingent fees paid to such person, firm or corporation in
701 the amount of two hundred fifty thousand dollars or more shall be
702 subject to requests for proposals or requests for qualifications and
703 negotiation procedures.

704 (b) Not later than October 1, 2005, the Attorney General shall
705 establish requests for proposals or requests for qualifications and
706 negotiation procedures for use by any state agency to enter into a
707 contract described in subsection (a) of this section.

708 (c) No contract described in subsection (a) of this section shall be
709 valid without the prior approval of the substance and form of such
710 contract by the Attorney General.

711 Sec. 17. Section 4a-100 of the general statutes is repealed and the
712 following is substituted in lieu thereof (*Effective January 1, 2006*):

713 (a) As used in this section: (1) "Prequalification" means
714 prequalification issued by the Commissioner of Administrative

715 Services to bid on a contract for the construction, reconstruction,
 716 alteration, remodeling, repair or demolition of any public building for
 717 work by the state or a municipality or to perform work under such a
 718 contract as a substantial subcontractor; (2) "subcontractor" means a
 719 person who performs work with a value in excess of twenty-five
 720 thousand dollars for a contractor pursuant to a contract for work for
 721 the state or a municipality which is estimated to cost more than five
 722 hundred thousand dollars; (3) "principals and key personnel" includes
 723 officers, directors, shareholders, members, partners and managerial
 724 employees; (4) "aggregate work capacity rating" means the maximum
 725 amount of work an applicant is capable of undertaking for any and all
 726 projects; [and] (5) "single project limit" means the highest estimated
 727 cost of a single project that an applicant is capable of undertaking; (6)
 728 "substantial subcontractor" means a person who performs work with a
 729 value in excess of five hundred thousand dollars for a contractor
 730 pursuant to a contract for work for the state or a municipality which is
 731 estimated to cost more than five hundred thousand dollars.

732 (b) (1) Any person may apply for prequalification to the Department
 733 of Administrative Services. Such application shall be made on such
 734 form as the Commissioner of Administrative Services prescribes and
 735 shall be accompanied by a nonrefundable application fee as set forth in
 736 subdivision (2) of this subsection. The application shall be signed
 737 under penalty of false statement.

738 (2) The application fee shall be as follows:

T1	Aggregate Work Capacity Rating	Fee
T2	\$5,000,000.00 or less	\$600.00
T3	\$5,000,000.01 - \$8,000,000.00	\$750.00
T4	\$8,000,000.01 - \$10,000,000.00	\$850.00
T5	\$10,000,000.01 - \$15,000,000.00	\$1,000.00
T6	\$15,000,000.01 - \$20,000,000.00	\$1,500.00
T7	\$20,000,000.01 - \$40,000,000.00	\$2,000.00
T8	\$40,000,000.01 or more	\$2,500.00

739 (c) The application form shall, at a minimum, require the applicant
740 to supply information concerning:

741 (1) The applicant's form of organization;

742 (2) The applicant's principals and key personnel and any names
743 under which the applicant, principals or key personnel conducted
744 business during the past five years;

745 [(3) The applicant's experience on public and private construction
746 projects over the past five years, or on the applicant's ten most
747 recently-completed projects and the names of any subcontractors used
748 on the projects;]

749 [(4)] (3) Any legal or administrative proceedings pending or
750 concluded adversely against the applicant or any of the applicant's
751 principals or key personnel within the past five years which relate to
752 the procurement or performance of any public or private construction
753 contract and whether the applicant is aware of any investigation
754 pending against the applicant or any principal or key personnel;

755 [(5)] (4) The nature of any financial, personal or familial relationship
756 between the applicant and any public or private construction project
757 owner listed on the application as constituting construction experience;

758 [(6)] (5) A statement of whether (A) the applicant has been
759 disqualified pursuant to section 4b-95, this section or section 31-57c or
760 31-57d, (B) the applicant is on the list distributed by the Labor
761 Commissioner pursuant to section 31-57a, (C) the applicant is
762 disqualified or prohibited from being awarded a contract pursuant to
763 section 31-57b, (D) the applicant has been disqualified by another state,
764 (E) the applicant has been disqualified by a federal agency or pursuant
765 to federal law, (F) the applicant's registration has been suspended or
766 revoked by the Department of Consumer Protection pursuant to
767 section 20-341gg, (G) the applicant has been disqualified by a
768 municipality, and (H) the matters that gave rise to any such
769 disqualification, suspension or revocation have been eliminated or

770 remedied; and

771 [(7)] (6) Other information as the commissioner deems relevant to
772 the determination of the applicant's qualifications and responsibilities.

773 (d) The applicant shall include a statement of financial condition
774 prepared by a certified public accountant which includes information
775 concerning the applicant's assets and liabilities, plant and equipment,
776 bank and credit references, bonding company and maximum bonding
777 capacity, and other information as the commissioner deems relevant to
778 an evaluation of the applicant's financial capacity and responsibility.

779 (e) Information contained in the application shall be current as of
780 the time of filing except that the statement of financial condition shall
781 pertain to the applicant's most recently-completed fiscal year.

782 (f) The commissioner shall determine whether to prequalify an
783 applicant on the basis of the application and on relevant past
784 performance according to procedures and criteria set forth in
785 regulations which the commissioner shall adopt on or before October
786 1, 2005, in accordance with chapter 54. Such criteria shall include, at a
787 minimum, the record of the applicant's performance, including, but
788 not limited to, written evaluations of the applicant's performance on
789 public or private projects, [within the past five years,] the applicant's
790 past experience on projects of various size and type, the skill, ability
791 and integrity of the applicant and any subcontractors used by the
792 applicant, the experience and qualifications of supervisory personnel
793 employed by the applicant, the maximum amount of work the
794 applicant is capable of undertaking as demonstrated by the applicant's
795 financial condition, bonding capacity, size of past projects and present
796 and anticipated work commitments, and any other relevant criteria
797 that the commissioner prescribes. Such regulations shall also (1)
798 provide that the criteria considered shall be assigned separate
799 designated numerical values and weights and that the applicant shall
800 be assigned an overall numerical rating on the basis of all criteria, and
801 (2) establish prequalification classifications, aggregate work capacity

802 ratings and single project limits. Such prequalification classifications
803 shall be used to establish the types of work a contractor or substantial
804 subcontractor is qualified to perform and the aggregate work capacity
805 ratings shall be used to establish the maximum amount of work a
806 contractor or substantial subcontractor is capable of undertaking.

807 (g) (1) The applicant shall indicate the prequalification
808 classifications, aggregate work capacity ratings and single project
809 limits that are sought. The commissioner may issue a certificate of
810 prequalification to any applicant who meets the requirements of this
811 section. Such certificate shall be effective for one year from the date
812 issued and shall indicate the contractor's or substantial subcontractor's
813 prequalification classifications, aggregate work capacity ratings and
814 single project limits. The commissioner may cause the initial certificate
815 of prequalification to be effective for a period not to exceed two years
816 and may require the applicant to remit payment of the application fee,
817 as set forth in subsection (b) of this section, for the first twelve months
818 of certification as well as a prorated application fee, as described in
819 subdivision (3) of this subsection, for any additional period of
820 certification beyond the first twelve months.

821 (2) A prequalified contractor or substantial subcontractor may apply
822 at any time for additional prequalification classifications, aggregate
823 work capacity ratings or single project limits by submitting the
824 applicable increase in fee, a completed update statement, and other
825 information the commissioner requires.

826 (3) The commissioner may renew a prequalification certificate upon
827 receipt of a completed update statement, any other material the
828 commissioner requires and a nonrefundable fee in an amount [equal
829 to] not less than one-half of the application fee for the applicable
830 aggregate work capacity rating as set forth in subsection (b) of this
831 section. [, except that in no event shall such fee be less than six
832 hundred dollars.]

833 (h) Not later than sixty days after receiving a completed application,

834 the commissioner shall mail or send by electronic mail a notice to the
835 applicant concerning the commissioner's preliminary determination
836 regarding the conditions of the prequalification certification, a denial
837 of certification, a reduction in the level of certification sought or
838 nonrenewal of certification. Any applicant aggrieved by the
839 commissioner's preliminary determination may request copies of the
840 information upon which the commissioner relied in making the
841 preliminary determination, provided such request is made not later
842 than ten days after the date the notice was mailed or sent by electronic
843 mail to the applicant. Not later than twenty days after the date the
844 notice was mailed or sent by electronic mail, the applicant may submit
845 additional information to the commissioner with a request for
846 reconsideration. The commissioner shall issue a final determination
847 regarding the application not later than ninety days after the date the
848 commissioner mailed or sent by electronic mail the notice of the
849 preliminary determination, which ninety-day period may be extended
850 for an additional period not to exceed ninety days if (1) the
851 commissioner gives written notice to the applicant that the
852 commissioner requires additional time, and (2) such notice is mailed or
853 sent by electronic mail during the initial ninety-day period.

854 (i) The commissioner may not issue a prequalification certificate to
855 any contractor or substantial subcontractor (1) who is disqualified
856 pursuant to section 31-57c or 31-57d, (2) who has a principal or key
857 personnel who, within the past five years, has a conviction or has
858 entered a plea of guilty or nolo contendere for or has admitted to
859 commission of an act or omission that reasonably could have resulted
860 in disqualification pursuant to any provision of subdivisions (1) to (3),
861 inclusive, of subsection (d) of section 31-57c or subdivisions (1) to (3),
862 inclusive, of subsection (d) of section 31-57d, as determined by the
863 commissioner.

864 (j) The commissioner may revoke a contractor's or substantial
865 subcontractor's prequalification or reduce the contractor's or
866 substantial subcontractor's prequalification classification or aggregate
867 work capacity ratings, after an opportunity for a hearing, if the

868 commissioner receives additional information that supports such
869 revocation or reduction or if such contractor is suspended from bidding
870 on a state contract pursuant to the provisions of section 8 of this act.

871 (k) (1) Any materially false statement in the application or any
872 update statement may, in the discretion of the awarding authority,
873 result in termination of any contract awarded the applicant by the
874 awarding authority. The awarding authority shall provide written
875 notice to the commissioner of such false statement not later than thirty
876 days after discovering such false statement. The commissioner shall
877 provide written notice of such false statement to the Commissioner of
878 Public Works and the Commissioner of Consumer Protection not later
879 than thirty days after discovering such false statement or receiving
880 such notice.

881 (2) The commissioner shall revoke the prequalification of any
882 person, after an opportunity for hearing, if the commissioner finds that
883 the person has included any materially false statement in such
884 application or update statement, has been convicted of a crime related
885 to the procurement or performance of any public or private
886 construction contract has been disqualified by the State Contracting
887 Standards Board from bidding on state contracts pursuant to section 7
888 of this act or, within the past five years or has otherwise engaged in
889 fraud in obtaining or maintaining prequalification. Any person whose
890 prequalification has been revoked pursuant to this subsection shall be
891 disqualified for a period of two years after which the person may
892 reapply for prequalification, except that a person whose
893 prequalification has been revoked on the basis of conviction of a crime
894 or engaging in fraud shall be disqualified for a period of five years
895 after which the person may reapply for prequalification and a person
896 whose prequalification has been revoked on the basis of
897 disqualification by the State Contracting Standards Board shall be
898 disqualified for the same length of time as the disqualification period
899 imposed by the State Contracting Standards Board pursuant to section
900 7 of this act. The commissioner shall not prequalify a person whose
901 prequalification has been revoked pursuant to this subdivision until

902 the expiration of said [two or] two-year, five-year, or other applicable
903 disqualification period and the commissioner is satisfied that the
904 matters that gave rise to the revocation have been eliminated or
905 remedied.

906 (l) The commissioner shall provide written notice of any revocation,
907 disqualification, reduction in classification or capacity rating or
908 reinstated prequalification to the Commissioner of Public Works and
909 the Commissioner of Consumer Protection not later than thirty days
910 after any final determination.

911 (m) The provisions of this section and section 4a-101 shall not apply
912 to subcontractors.

913 (n) The commissioner shall establish an update statement for use by
914 bidders and substantial subcontractors for purposes of renewing or
915 upgrading a prequalification certificate and for purposes of submitting
916 a bid pursuant to section 4b-91, as amended by this act.

917 (o) Any applicant aggrieved by the commissioner's final
918 determination concerning a preliminary determination, a denial of
919 certification, a reduction in prequalification classification or aggregate
920 work capacity rating or a revocation or nonrenewal of certification
921 may appeal to the Superior Court in accordance with section 4-183.

922 (p) Not later than one hundred twenty days after becoming
923 prequalified, any contractor or substantial subcontractor prequalified
924 under the provisions of this section shall participate in an ethics
925 training course approved by the State Contracting Standards Board
926 pursuant to section 4 of this act.

927 (q) The commissioner shall adopt regulations, in accordance with
928 chapter 54, to establish a schedule of application fees for substantial
929 subcontractors.

930 Sec. 18. Section 4a-101 of the general statutes is repealed and the
931 following is substituted in lieu thereof (*Effective January 1, 2006*):

932 (a) On or before October 1, 2005, the Commissioner of
933 Administrative Services shall adopt regulations, in accordance with
934 chapter 54, to establish a standard contractor evaluation form. Such
935 form shall include, at a minimum, the following evaluation criteria: (1)
936 Timeliness of performance; (2) quality of performance; (3) cost
937 containment, including, but not limited to, the contractor's ability to
938 work within the contract's allotted cost, the accuracy of the contractor's
939 billing, and the number and cause of change orders and the manner in
940 which the contractor determined the price on the change orders; (4)
941 safety; (5) the quality of the contractor's working relationship with the
942 agency and the quality of the contractor's supervision of the work area;
943 (6) communication with the agency; (7) the quality of the contractor's
944 required documentation; (8) the performance of the contractor's
945 subcontractors and substantial subcontractors, to the extent known by
946 the official who completes the evaluation; and (9) the contractor's and
947 any subcontractor's compliance with part III of chapter 557, or chapter
948 558, or the provisions of the federal Davis-Bacon Act, 40 USC, Sections
949 276a to 276a-5, inclusive, as from time to time amended, to the extent
950 known by the official who completes the evaluation.

951 (b) Each public agency shall compile evaluation information during
952 the performance of the contract and complete and submit the
953 evaluation form to the commissioner after completion of a building
954 project under the agency's control if the building project is funded, in
955 whole or in part, by state funds. Such evaluation information shall be
956 available to any public agency for purposes of assessing the
957 responsibility of the contractor during a bid selection and evaluation
958 process. The designated official from such agency shall certify that the
959 information contained in the evaluation form represents, to the best of
960 the certifying official's knowledge, a true and accurate analysis of the
961 contractor's performance record on the contract. The commissioner
962 shall include the evaluation in the contractor's prequalification file. The
963 official shall mail a copy of the completed evaluation form to the
964 contractor. Any contractor who wishes to contest any information
965 contained in the evaluation form may submit a written response to the

966 commissioner not later than thirty days after the date the form was
967 mailed as indicated by the postmark on the envelope. Such response
968 shall set forth any additional information concerning the building
969 project or the oversight of the contract by the public agency that may
970 be relevant in the evaluation of the contractor's performance on the
971 project. The commissioner shall include any such response in the
972 contractor's prequalification file.

973 (c) As used in this section, "public agency" means a public agency,
974 as defined in section 1-200, but does not include The University of
975 Connecticut with respect to any project, as defined in subdivision (16)
976 of section 10a-109c, that is undertaken and controlled by the
977 university, and "subcontractor" means a person who performs work
978 with a value in excess of twenty-five thousand dollars for a contractor
979 pursuant to a contract for work for the state or a municipality which is
980 estimated to cost more than five hundred thousand dollars.

981 (d) Upon fifty per cent completion of any building project under a
982 public agency's control, the agency shall advise the contractor in
983 writing of the agency's preliminary evaluation of the contractor's
984 performance on the project.

985 (e) No public agency, employee of a public agency or certifying
986 official of a public agency shall be held liable to any contractor for any
987 loss or injury sustained by such contractor as the result of the
988 completion of an evaluation form, as required by this section, unless
989 such agency, employee or official is found by a court of competent
990 jurisdiction to have acted in a wilful, wanton or reckless manner.

991 (f) Any public agency that fails to submit a completed evaluation
992 form, as required by this section, not later than seventy days after the
993 completion of a project, shall be ineligible for the receipt of any public
994 funds disbursed by the state for the purposes of the construction,
995 reconstruction, alteration, remodeling, repair or demolition of any
996 public building or any public works project until such completed
997 evaluation form is submitted.

1098 (g) Notwithstanding the provisions of subsection (a) of this section,
1099 any political subdivision of the state, when evaluating the performance
1100 of a contractor's subcontractors or substantial subcontractors, to the
1101 extent known, may rely on an evaluation of such subcontractors or
1102 substantial subcontractors that is conducted by the contractor.

1103 Sec. 19. Section 4b-91 of the general statutes is amended by adding
1104 subsection (j) as follows (*Effective January 1, 2006*):

1105 (NEW) (j) On and after January 1, 2006, no person whose
1106 subcontract exceeds five hundred thousand dollars in value may
1107 perform work as a subcontractor, except for a project described in
1108 subdivision (2) of subsection (a) of this section, for the construction,
1109 reconstruction, alteration, remodeling, repair or demolition of any
1110 public building for work by the state or a municipality, which is
1111 estimated to cost more than five hundred thousand dollars and is paid
1112 for, in whole or in part, with state funds, unless the person is
1113 prequalified in accordance with section 4a-100, as amended by this act.

1114 Sec. 20. Section 4b-56 of the general statutes is repealed and the
1115 following is substituted in lieu thereof (*Effective from passage*):

1116 (a) There shall be established within the Department of Public
1117 Works [a] State Construction Services Selection [Panel] Panels which
1118 shall consist of five members. Four of such members shall be
1119 appointed by the commissioner, shall be current or retired employees
1120 of the Department of Public Works and shall serve for [terms of one
1121 year from July first] deliberations involving the project for which such
1122 member was appointed. The remaining member shall be appointed by
1123 the head or acting head of the user agency and shall serve only for
1124 deliberations involving the project for which [he] such member was
1125 appointed. [If any vacancy occurs on the panel, the commissioner shall
1126 appoint a person for the unexpired term in accordance with the
1127 provisions of this subsection.]

1128 (b) The selection panel shall not be deemed to be a board or
1129 commission within the meaning of section 4-9a.

1030 (c) There shall be established within the Department of Public
1031 Works [a] Connecticut Health and Education Facilities Authority
1032 Construction Services [Panel] Panels which shall consist of five
1033 members: Three of whom shall be appointed by the Commissioner of
1034 Public Works, who shall serve only for deliberations involving the
1035 project for which such member was appointed and shall be current
1036 employees of the Department of Public Works; and the remaining
1037 members shall be appointed by the head or acting head of the user
1038 agency and shall serve only for deliberations involving the project for
1039 which such member was appointed. [The members of the selection
1040 panel appointed by the Commissioner of Public Works shall serve for
1041 terms of one year from July first. If any vacancy occurs on the panel,
1042 the Commissioner of Public Works or the head or acting head of the
1043 user agency, as appropriate, shall appoint a person for the unexpired
1044 term in accordance with the provisions of this subsection.]

1045 (d) The panel established pursuant to subsection (c) of this section
1046 shall not be deemed to be a board or commission within the meaning
1047 of section 4-9a. Such panel shall be the selection panel only for
1048 Connecticut Health and Education Facilities Authority projects
1049 pursuant to section 10a-89b.

1050 Sec. 21. Subsections (a) and (b) of section 4b-100a of the general
1051 statutes are repealed and the following is substituted in lieu thereof
1052 (*Effective from passage*):

1053 (a) The Department of Public Works shall establish construction
1054 services award panels which shall each consist of six members: Three
1055 of whom shall be appointed by the Commissioner of Public Works,
1056 [and shall] be current employees of the Department of Public Works
1057 and serve only for deliberations involving the project for which such
1058 member was appointed; two of whom shall be appointed by the
1059 department head of the user agency; and one of whom who shall be a
1060 neutral party appointed by the commissioner. [The members of each
1061 award panel appointed by the Commissioner of Public Works shall
1062 serve for terms of one year from July first. If any vacancy occurs on the

1063 panel, the Commissioner of Public Works or the head or acting head of
1064 the user agency, as appropriate, shall appoint a person for the
1065 unexpired term in accordance with the provisions of this subsection.]

1066 (b) A panel established pursuant to this section shall not be deemed
1067 to be a board or commission within the meaning of section 4-9a. Such
1068 panels shall be the award panels for any contract for the construction,
1069 reconstruction, alteration, remodeling, repair or demolition of any
1070 public building for the state pursuant to [sections 4b-91 to 4b-100,
1071 inclusive, and] section 4b-24 and subsection (g) of section 4b-91.

1072 Sec. 22. Subsection (b) of section 4b-91 of the general statutes is
1073 repealed and the following is substituted in lieu thereof (*Effective from*
1074 *passage*):

1075 (b) The Commissioner of Public Works, the joint committee or the
1076 constituent unit, as the case may be, shall determine the manner of
1077 submission and the conditions and requirements of such bids, and the
1078 time within which the bids shall be submitted, consistent with the
1079 provisions of sections 4b-91 to 4b-96, inclusive. Such award shall be
1080 made within [sixty] one hundred twenty days after the opening of
1081 such bids. If the general bidder selected as the general contractor fails
1082 to perform the general contractor's agreement to execute a contract in
1083 accordance with the terms of the general contractor's general bid and
1084 furnish a performance bond and also a labor and materials or payment
1085 bond to the amount specified in the general bid form, an award shall
1086 be made to the next lowest responsible and qualified general bidder.
1087 No employee of the Department of Public Works, the joint committee
1088 or a constituent unit with decision-making authority concerning the
1089 award of a contract and no public official, as defined in section 1-79,
1090 may communicate with any bidder prior to the award of the contract if
1091 the communication results in the bidder receiving information about
1092 the contract that is not available to other bidders, except that if the
1093 lowest responsible and qualified bidder's price submitted is in excess
1094 of funds available to make an award, the Commissioner of Public
1095 Works, the Joint Committee on Legislative Management or the

1096 constituent unit, as the case may be, may negotiate with such bidder
1097 and award the contract on the basis of the funds available, without
1098 change in the contract specifications, plans and other requirements. If
1099 the award of a contract on said basis is refused by such bidder, the
1100 Commissioner of Public Works, the Joint Committee on Legislative
1101 Management or the constituent unit, as the case may be, may negotiate
1102 with other contractors who submitted bids in ascending order of bid
1103 prices without change in the contract, specifications, plans and other
1104 requirements. In the event of negotiation with general bidders as
1105 provided in this section, the general bidder involved may negotiate
1106 with subcontractors on the same basis, provided such general bidder
1107 shall negotiate only with subcontractors named on such general
1108 bidder's general bid form.

1109 Sec. 23. (NEW) (*Effective from passage*) (a) This section shall be known
1110 as the "Anthony J. Tercyak Act".

1111 (b) The Department of Administrative Services shall require any
1112 publicly traded corporation that seeks to do business with the state to
1113 certify in an affidavit that such company is not a company that: (1)
1114 Conducted business in the United States, (2) was previously
1115 incorporated within the United States' territorial limits, (3)
1116 reincorporated outside the United States' territorial limits on or after
1117 July 1, 2005, and (4) as a result of such reincorporation outside the
1118 United States' territorial limits, has received a reduction in federal or
1119 Connecticut tax liability.

1120 (c) The state may not enter into any contract with any publicly
1121 traded company that does not deny such reincorporation in a sworn
1122 affidavit, except that the Attorney General may waive such prohibition
1123 if the services sought by the state are not available from a company
1124 that is incorporated in the United States or if waiver of such
1125 prohibition is in the best interest of the state.

1126 Sec. 24. (NEW) (*Effective October 1, 2005*) (a) As used in this section:

1127 (1) "Fixture" means the assembly that holds a lamp and may include

1128 an assembly housing, a mounting bracket or pole socket, a lamp
1129 holder, a ballast, a reflector or mirror and a refractor or lens;

1130 (2) "Full cut-off luminaire" means a luminaire that allows no direct
1131 light emissions above a horizontal plane through the luminaire's
1132 lowest light-emitting part;

1133 (3) "Glare" means direct light emitting from a luminaire that causes
1134 reduced vision or momentary blindness;

1135 (4) "Illuminance" means the level of light measured at a surface;

1136 (5) "Lamp" means the component of a luminaire that produces the
1137 light;

1138 (6) "Light trespass" means light emitted by a luminaire that shines
1139 beyond the boundaries of the property on which the luminaire is
1140 located;

1141 (7) "Lumen" means a unit of measurement of luminous flux;

1142 (8) "Luminaire" means the complete lighting unit, including the
1143 lamp and the fixture;

1144 (9) "Permanent outdoor luminaire" means any luminaire or system
1145 of luminaires that is outdoors and intended to be used for seven days
1146 or longer; and

1147 (10) "State funds" means any bond revenues or any money
1148 appropriated or allocated by the General Assembly.

1149 (b) Except as provided in subsection (c) of this section, no state
1150 funds shall be used to install or replace a permanent outdoor luminaire
1151 for lighting on the grounds of any state building or facility unless (1)
1152 the luminaire is designed to maximize energy conservation and to
1153 minimize light pollution, glare and light trespass, (2) the luminaire's
1154 illuminance is equal to the minimum illuminance adequate for the
1155 intended purpose of the lighting, and (3) for a luminaire with a rated

1156 output of more than one thousand eight hundred lumens, such
1157 luminaire is a full cut-off luminaire.

1158 (c) The provisions of subdivision (3) of subsection (b) of this section
1159 shall not apply to luminaires located on the grounds of any
1160 correctional institution or facility administered by the Commissioner of
1161 Correction, required by federal regulations, required for storm
1162 operation activities performed by the Department of Transportation, or
1163 in a lighting plan for a Department of Transportation facility where
1164 less than twenty-five per cent of the luminaires are to be replaced. The
1165 Commissioner of Public Works, or the commissioner's designee, may
1166 waive the provisions of subdivision (3) of subsection (b) of this section
1167 with respect to luminaires on the grounds of any other state building
1168 or facility when, after a request for such a waiver has been made and
1169 reviewed, the commissioner or the commissioner's designee
1170 determines that such a waiver is necessary for the lighting application.
1171 Requests for such a waiver shall be made to the commissioner or the
1172 commissioner's designee in such form as the commissioner shall
1173 prescribe and shall include, without limitation, a description of the
1174 lighting plan, a description of the efforts that have been made to
1175 comply with the provisions of subdivision (3) of subsection (b) of this
1176 section and the reasons such a waiver is necessary. In reviewing a
1177 request for such a waiver, the commissioner or the commissioner's
1178 designee shall consider design safety, costs and other factors deemed
1179 appropriate by the commissioner or the commissioner's designee.

1180 (d) The provisions of this section shall not apply to the installation
1181 or replacement of luminaires for which the Secretary of the Office of
1182 Policy and Management (1) conducts a life-cycle cost analysis of one or
1183 more luminaires that meet the requirements set forth in subsection (b)
1184 of this section and one or more luminaires that do not meet such
1185 requirements, and (2) certifies that a luminaire which meets such
1186 requirements is not cost effective and is not the most appropriate
1187 alternative based on the life-cycle cost analysis.

1188 Sec. 25. Subsection (d) of section 13a-143d of the general statutes is

1189 repealed and the following is substituted in lieu thereof (*Effective from*
1190 *passage*):

1191 (d) [Any] All luminaire in violation of any provision of subsection
1192 (b) or (c) of this section operating prior to October 1, [2003] 2004, shall
1193 be brought into compliance with the requirements in subsection (b) of
1194 this section [no later than October 1, 2005] in accordance with the
1195 following schedule: Approximately twenty per cent by October 1, 2005,
1196 approximately forty per cent by October 1, 2006, approximately sixty
1197 per cent by October 1, 2007, approximately eighty per cent by October
1198 1, 2008, and one hundred per cent by October 1, 2009.

1199 Sec. 26. Subdivision (1) of section 1-92 of the general statutes is
1200 repealed and the following is substituted in lieu thereof (*Effective from*
1201 *passage*):

1202 (1) Adopt regulations in accordance with chapter 54 to carry out the
1203 purposes of this part. Not later than January 1, 1992, the commission
1204 shall adopt regulations which further clarify the meaning of the terms
1205 "directly and personally received" and "major life event", as used in
1206 subsection (e) of section 1-79 and subsection (g) of section 1-91. The
1207 commission shall adopt regulations that further clarify the meaning of
1208 the term "directly or indirectly involved in any enterprise", as used in
1209 section 2 of this act.

1210 Sec. 27. (NEW) (*Effective July 1, 2005*) (a) On or before January 1,
1211 2007, the Judicial Branch shall prepare a procurement code applicable
1212 to its contracting expenditures, including, but not limited to,
1213 expenditures: (1) Involving its contracting and procurement processes,
1214 including, but not limited to, purchasing or leasing of supplies,
1215 materials or equipment, consultant or consultant services, personal
1216 service agreements or purchase of service agreements, and (2) relating
1217 to contracts for the renovation, alteration or repair of any Judicial
1218 Branch facility in accordance with section 4b-1 of the general statutes.

1219 (b) The procurement code described in subsection (a) of this section
1220 shall be designed to: (1) Establish uniform contracting standards and

1221 practices; (2) simplify and clarify contracting standards and
1222 procurement policies and practices, including, but not limited to,
1223 procedures for competitive sealed bids, competitive sealed proposals,
1224 small purchases, sole source procurements, emergency procurements
1225 and special procurements; (3) ensure the fair and equitable treatment
1226 of all businesses and persons who deal with the procurement system;
1227 (4) include a process to maximize the use of small contractors and
1228 minority business enterprises, as defined in section 4a-60g of the
1229 general statutes; (5) provide increased economy in procurement
1230 activities and maximize purchasing value to the fullest extent possible;
1231 (6) ensure that the procurement of supplies, materials, equipment,
1232 services, real property and construction is obtained in a cost-effective
1233 and responsive manner; (7) include a process to ensure contractor and
1234 Judicial Department accountability; and (8) provide a process for
1235 competitive sealed bids, competitive sealed proposals, small
1236 purchases, sole source procurements, emergency procurements,
1237 special procurements, best value selection, qualification based
1238 selection and the conditions for their use.

1239 (c) On or before February 1, 2007, the Judicial Branch shall submit
1240 such procurement code for review and approval to the joint standing
1241 committee of the General Assembly having cognizance of matters
1242 relating to the Judicial Branch.

1243 (d) Notwithstanding the provisions of subsections (a) and (b) of this
1244 section, the Judicial Branch shall be subject to the requirements of
1245 section 14 of this act.

1246 Sec. 28. Section 1-210 of the general statutes is repealed and the
1247 following is substituted in lieu thereof (*Effective from passage*):

1248 (a) Except as otherwise provided by any federal law or state statute,
1249 all records maintained or kept on file by any public agency, whether or
1250 not such records are required by any law or by any rule or regulation,
1251 shall be public records and every person shall have the right to (1)
1252 inspect such records promptly during regular office or business hours,

1253 (2) copy such records in accordance with subsection (g) of section 1-
1254 212, or (3) receive a copy of such records in accordance with section 1-
1255 212. Any agency rule or regulation, or part thereof, that conflicts with
1256 the provisions of this subsection or diminishes or curtails in any way
1257 the rights granted by this subsection shall be void. Each such agency
1258 shall keep and maintain all public records in its custody at its regular
1259 office or place of business in an accessible place and, if there is no such
1260 office or place of business, the public records pertaining to such agency
1261 shall be kept in the office of the clerk of the political subdivision in
1262 which such public agency is located or of the Secretary of the State, as
1263 the case may be. Any certified record hereunder attested as a true copy
1264 by the clerk, chief or deputy of such agency or by such other person
1265 designated or empowered by law to so act, shall be competent
1266 evidence in any court of this state of the facts contained therein. Each
1267 such agency shall make, keep and maintain a record of the proceedings
1268 of its meetings.

1269 (b) Nothing in the Freedom of Information Act shall be construed to
1270 require disclosure of:

1271 (1) Preliminary drafts or notes provided the public agency has
1272 determined that the public interest in withholding such documents
1273 clearly outweighs the public interest in disclosure;

1274 (2) Personnel or medical files and similar files the disclosure of
1275 which would constitute an invasion of personal privacy;

1276 (3) Records of law enforcement agencies not otherwise available to
1277 the public which records were compiled in connection with the
1278 detection or investigation of crime, if the disclosure of said records
1279 would not be in the public interest because it would result in the
1280 disclosure of (A) the identity of informants not otherwise known or the
1281 identity of witnesses not otherwise known whose safety would be
1282 endangered or who would be subject to threat or intimidation if their
1283 identity was made known, (B) signed statements of witnesses, (C)
1284 information to be used in a prospective law enforcement action if

1285 prejudicial to such action, (D) investigatory techniques not otherwise
1286 known to the general public, (E) arrest records of a juvenile, which
1287 shall also include any investigatory files, concerning the arrest of such
1288 juvenile, compiled for law enforcement purposes, (F) the name and
1289 address of the victim of a sexual assault under section 53a-70, 53a-70a,
1290 53a-71, 53a-72a, 53a-72b or 53a-73a, or injury or risk of injury, or
1291 impairing of morals under section 53-21, or of an attempt thereof, or
1292 (G) uncorroborated allegations subject to destruction pursuant to
1293 section 1-216;

1294 (4) Records pertaining to strategy and negotiations with respect to
1295 pending claims or pending litigation to which the public agency is a
1296 party until such litigation or claim has been finally adjudicated or
1297 otherwise settled;

1298 (5) (A) Trade secrets, which for purposes of the Freedom of
1299 Information Act, are defined as information, including formulas,
1300 patterns, compilations, programs, devices, methods, techniques,
1301 processes, drawings, cost data, or customer lists that (i) derive
1302 independent economic value, actual or potential, from not being
1303 generally known to, and not being readily ascertainable by proper
1304 means by, other persons who can obtain economic value from their
1305 disclosure or use, and (ii) are the subject of efforts that are reasonable
1306 under the circumstances to maintain secrecy; and

1307 (B) Commercial or financial information given in confidence, not
1308 required by statute;

1309 (6) Test questions, scoring keys and other examination data used to
1310 administer a licensing examination, examination for employment or
1311 academic examinations;

1312 (7) The contents of real estate appraisals, engineering or feasibility
1313 estimates and evaluations made for or by an agency relative to the
1314 acquisition of property or to prospective public supply and
1315 construction contracts, until such time as all of the property has been
1316 acquired or all proceedings or transactions have been terminated or

1317 abandoned, provided the law of eminent domain shall not be affected
1318 by this provision;

1319 (8) Statements of personal worth or personal financial data required
1320 by a licensing agency and filed by an applicant with such licensing
1321 agency to establish the applicant's personal qualification for the
1322 license, certificate or permit applied for;

1323 (9) Records, reports and statements of strategy or negotiations with
1324 respect to collective bargaining;

1325 (10) Records, tax returns, reports and statements exempted by
1326 federal law or state statutes or communications privileged by the
1327 attorney-client relationship;

1328 (11) Names or addresses of students enrolled in any public school or
1329 college without the consent of each student whose name or address is
1330 to be disclosed who is eighteen years of age or older and a parent or
1331 guardian of each such student who is younger than eighteen years of
1332 age, provided this subdivision shall not be construed as prohibiting the
1333 disclosure of the names or addresses of students enrolled in any public
1334 school in a regional school district to the board of selectmen or town
1335 board of finance, as the case may be, of the town wherein the student
1336 resides for the purpose of verifying tuition payments made to such
1337 school;

1338 (12) Any information obtained by the use of illegal means;

1339 (13) Records of an investigation or the name of an employee
1340 providing information under the provisions of section 4-61dd;

1341 (14) Adoption records and information provided for in sections 45a-
1342 746, 45a-750 and 45a-751;

1343 (15) Any page of a primary petition, nominating petition,
1344 referendum petition or petition for a town meeting submitted under
1345 any provision of the general statutes or of any special act, municipal
1346 charter or ordinance, until the required processing and certification of

1347 such page has been completed by the official or officials charged with
1348 such duty after which time disclosure of such page shall be required;

1349 (16) Records of complaints, including information compiled in the
1350 investigation thereof, brought to a municipal health authority pursuant
1351 to chapter 368e or a district department of health pursuant to chapter
1352 368f, until such time as the investigation is concluded or thirty days
1353 from the date of receipt of the complaint, whichever occurs first;

1354 (17) Educational records which are not subject to disclosure under
1355 the Family Educational Rights and Privacy Act, 20 USC 1232g;

1356 (18) Records, the disclosure of which the Commissioner of
1357 Correction, or as it applies to Whiting Forensic Division facilities of the
1358 Connecticut Valley Hospital, the Commissioner of Mental Health and
1359 Addiction Services, has reasonable grounds to believe may result in a
1360 safety risk, including the risk of harm to any person or the risk of an
1361 escape from, or a disorder in, a correctional institution or facility under
1362 the supervision of the Department of Correction or Whiting Forensic
1363 Division facilities. Such records shall include, but are not limited to:

1364 (A) Security manuals, including emergency plans contained or
1365 referred to in such security manuals;

1366 (B) Engineering and architectural drawings of correctional
1367 institutions or facilities or Whiting Forensic Division facilities;

1368 (C) Operational specifications of security systems utilized by the
1369 Department of Correction at any correctional institution or facility or
1370 Whiting Forensic Division facilities, except that a general description
1371 of any such security system and the cost and quality of such system
1372 may be disclosed;

1373 (D) Training manuals prepared for correctional institutions and
1374 facilities or Whiting Forensic Division facilities that describe, in any
1375 manner, security procedures, emergency plans or security equipment;

1376 (E) Internal security audits of correctional institutions and facilities

1377 or Whiting Forensic Division facilities;

1378 (F) Minutes or recordings of staff meetings of the Department of
1379 Correction or Whiting Forensic Division facilities, or portions of such
1380 minutes or recordings, that contain or reveal information relating to
1381 security or other records otherwise exempt from disclosure under this
1382 subdivision;

1383 (G) Logs or other documents that contain information on the
1384 movement or assignment of inmates or staff at correctional institutions
1385 or facilities; and

1386 (H) Records that contain information on contacts between inmates,
1387 as defined in section 18-84, and law enforcement officers;

1388 (19) Records when there are reasonable grounds to believe
1389 disclosure may result in a safety risk, including the risk of harm to any
1390 person, any government-owned or leased institution or facility or any
1391 fixture or appurtenance and equipment attached to, or contained in,
1392 such institution or facility, except that such records shall be disclosed
1393 to a law enforcement agency upon the request of the law enforcement
1394 agency. Such reasonable grounds shall be determined (A) with respect
1395 to records concerning any executive branch agency of the state or any
1396 municipal, district or regional agency, by the Commissioner of Public
1397 Works, after consultation with the chief executive officer of the agency;
1398 (B) with respect to records concerning Judicial Department facilities,
1399 by the Chief Court Administrator; and (C) with respect to records
1400 concerning the Legislative Department, by the executive director of the
1401 Joint Committee on Legislative Management. As used in this section,
1402 "government-owned or leased institution or facility" includes, but is
1403 not limited to, an institution or facility owned or leased by a public
1404 service company, as defined in section 16-1, a certified
1405 telecommunications provider, as defined in section 16-1, a water
1406 company, as defined in section 25-32a, or a municipal utility that
1407 furnishes electric, gas or water service, but does not include an
1408 institution or facility owned or leased by the federal government, and

1409 "chief executive officer" includes, but is not limited to, an agency head,
1410 department head, executive director or chief executive officer. Such
1411 records include, but are not limited to:

1412 (i) Security manuals or reports;

1413 (ii) Engineering and architectural drawings of government-owned
1414 or leased institutions or facilities;

1415 (iii) Operational specifications of security systems utilized at any
1416 government-owned or leased institution or facility, except that a
1417 general description of any such security system and the cost and
1418 quality of such system, may be disclosed;

1419 (iv) Training manuals prepared for government-owned or leased
1420 institutions or facilities that describe, in any manner, security
1421 procedures, emergency plans or security equipment;

1422 (v) Internal security audits of government-owned or leased
1423 institutions or facilities;

1424 (vi) Minutes or records of meetings, or portions of such minutes or
1425 records, that contain or reveal information relating to security or other
1426 records otherwise exempt from disclosure under this subdivision;

1427 (vii) Logs or other documents that contain information on the
1428 movement or assignment of security personnel at government-owned
1429 or leased institutions or facilities;

1430 (viii) Emergency plans and emergency recovery or response plans;
1431 and

1432 (ix) With respect to a water company, as defined in section 25-32a,
1433 that provides water service: Vulnerability assessments and risk
1434 management plans, operational plans, portions of water supply plans
1435 submitted pursuant to section 25-32d that contain or reveal
1436 information the disclosure of which may result in a security risk to a
1437 water company, inspection reports, technical specifications and other

1438 materials that depict or specifically describe critical water company
1439 operating facilities, collection and distribution systems or sources of
1440 supply;

1441 (20) Records of standards, procedures, processes, software and
1442 codes, not otherwise available to the public, the disclosure of which
1443 would compromise the security or integrity of an information
1444 technology system;

1445 (21) The residential, work or school address of any participant in the
1446 address confidentiality program established pursuant to sections 54-
1447 240 to 54-240o, inclusive; and

1448 (22) Responses to any procurement requests for proposals by a
1449 public agency and any records or files made in connection with a
1450 contract award process by any public agency until the contract is
1451 awarded or until negotiations for the award of such contract have
1452 ended, whichever occurs first, provided the chief officer of such public
1453 agency certifies that the public interest in disclosure of such responses,
1454 records or files is outweighed by the public interest in confidentiality
1455 of such responses, records or files.

1456 (c) Whenever a public agency receives a request from any person
1457 confined in a correctional institution or facility or a Whiting Forensic
1458 Division facility, for disclosure of any public record under the
1459 Freedom of Information Act, the public agency shall promptly notify
1460 the Commissioner of Correction or the Commissioner of Mental Health
1461 and Addiction Services in the case of a person confined in a Whiting
1462 Forensic Division facility of such request, in the manner prescribed by
1463 the commissioner, before complying with the request as required by
1464 the Freedom of Information Act. If the commissioner believes the
1465 requested record is exempt from disclosure pursuant to subdivision
1466 (18) of subsection (b) of this section, the commissioner may withhold
1467 such record from such person when the record is delivered to the
1468 person's correctional institution or facility or Whiting Forensic
1469 Division facility.

1470 (d) Whenever a public agency, except the Judicial Department or
1471 Legislative Department, receives a request from any person for
1472 disclosure of any records described in subdivision (19) of subsection
1473 (b) of this section under the Freedom of Information Act, the public
1474 agency shall promptly notify the Commissioner of Public Works of
1475 such request, in the manner prescribed by the commissioner, before
1476 complying with the request as required by the Freedom of Information
1477 Act and for information related to a water company, as defined in
1478 section 25-32a, the public agency shall promptly notify the water
1479 company before complying with the request as required by the
1480 Freedom of Information Act. If the commissioner, after consultation
1481 with the chief executive officer of the applicable agency or after
1482 consultation with the chief executive officer of the applicable water
1483 company for information related to a water company, as defined in
1484 section 25-32a, believes the requested record is exempt from disclosure
1485 pursuant to subdivision (19) of subsection (b) of this section, the
1486 commissioner may direct the agency to withhold such record from
1487 such person. In any appeal brought under the provisions of section 1-
1488 206 of the Freedom of Information Act for denial of access to records
1489 for any of the reasons described in subdivision (19) of subsection (b) of
1490 this section, such appeal shall be against the Commissioner of Public
1491 Works, exclusively, or, in the case of records concerning Judicial
1492 Department facilities, the Chief Court Administrator or, in the case of
1493 records concerning the Legislative Department, the executive director
1494 of the Joint Committee on Legislative Management.

1495 (e) Notwithstanding the provisions of subdivisions (1) and (16) of
1496 subsection (b) of this section, disclosure shall be required of:

1497 (1) Interagency or intra-agency memoranda or letters, advisory
1498 opinions, recommendations or any report comprising part of the
1499 process by which governmental decisions and policies are formulated,
1500 except disclosure shall not be required of a preliminary draft of a
1501 memorandum, prepared by a member of the staff of a public agency,
1502 which is subject to revision prior to submission to or discussion among
1503 the members of such agency;

1504 (2) All records of investigation conducted with respect to any
1505 tenement house, lodging house or boarding house as defined in section
1506 19a-355, or any nursing home, residential care home or rest home, as
1507 defined in section 19a-490, by any municipal building department or
1508 housing code inspection department, any local or district health
1509 department, or any other department charged with the enforcement of
1510 ordinances or laws regulating the erection, construction, alteration,
1511 maintenance, sanitation, ventilation or occupancy of such buildings;
1512 and

1513 (3) The names of firms obtaining bid documents from any state
1514 agency.

1515 Sec. 29. Subsection (d) of section 4b-91 of the general statutes is
1516 repealed and the following is substituted in lieu thereof (*Effective from*
1517 *passage*):

1518 (d) On and after October 1, 2004, each bid submitted for a contract
1519 described in subsection (c) of this section shall include a copy of a
1520 prequalification certificate issued by the Commissioner of
1521 Administrative Services. The bid shall also be accompanied by an
1522 update statement in such form as the Commissioner of Administrative
1523 Services prescribes. The form for such update statement shall provide
1524 space for information regarding all bonded projects completed by the
1525 bidder since the date the bidder's prequalification certificate was
1526 issued or renewed, all bonded projects the bidder currently has under
1527 contract, including the percentage of work on such projects not
1528 completed, the names and qualifications of the personnel who will
1529 have supervisory responsibility for the performance of the contract,
1530 any significant changes in the bidder's financial position or corporate
1531 structure since the date the certificate was issued or renewed, any
1532 change in the contractor's qualification status as determined by the
1533 provisions of subdivision (6) of subsection (c) of section 4a-100 and
1534 such other relevant information as the Commissioner of
1535 Administrative Services prescribes. Any bid submitted without a copy
1536 of the prequalification certificate and an update statement shall be

1537 invalid. Any public agency that accepts a bid submitted without a
1538 copy of such prequalification certificate and an update statement, as
1539 required by this section, shall be ineligible for the receipt of any state
1540 funds disbursed for the purpose of the construction, reconstruction,
1541 alteration, remodeling, repair or demolition of any public building or
1542 any public works project.

1543 Sec. 30. Subdivision (1) of subsection (a) of section 4a-60g of the
1544 general statutes is repealed and the following is substituted in lieu
1545 thereof (*Effective January 1, 2006*):

1546 (1) "Small contractor" means any contractor, subcontractor,
1547 manufacturer or service company (A) which has been doing business
1548 under the same ownership and management and has maintained its
1549 principal place of business in the state, for a period of at least one year
1550 immediately prior to the date of application for certification under this
1551 section, (B) which [had gross revenues not exceeding ten million
1552 dollars in the most recently completed fiscal year prior to such
1553 application] meets the size standard established by the Department of
1554 Administrative Services for the business sector in which such
1555 contractor, subcontractor, manufacturer or service company primarily
1556 operates, and (C) at least fifty-one per cent of the ownership of which
1557 is held by a person or persons who exercise operational authority over
1558 the daily affairs of the business and have the power to direct the
1559 management and policies and receive the beneficial interests of the
1560 business, except that a nonprofit corporation shall be construed to be a
1561 small contractor if such nonprofit corporation meets the requirements
1562 of subparagraphs (A) and (B) of this subdivision.

1563 Sec. 31. Subsection (f) of section 4a-60g of the general statutes is
1564 repealed and the following is substituted in lieu thereof (*Effective July*
1565 *1, 2005*):

1566 (f) The awarding authority shall require that a contractor or
1567 subcontractor awarded a contract or a portion of a contract under this
1568 section perform not less than fifteen per cent of the work with the

workforces of such contractor or subcontractor and shall require that not less than twenty-five per cent of the work be performed by contractors or subcontractors eligible for awards under this section. A contractor awarded a contract or a portion of a contract under this section shall not subcontract with any person with whom the contractor is affiliated. No person who is affiliated with another person shall be eligible for awards under this section if both affiliated persons considered together would not qualify as a small contractor or a minority business enterprise under subsection (a) of this section. The awarding authority shall require that a contractor awarded a contract under this section submit, in writing, an explanation of any subcontract entered into with any person that is not eligible for awards under this section.

Sec. 32. Subsection (k) of section 4a-60g of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2005*):

(k) (1) Whenever the awarding agency has reason to believe that any contractor or subcontractor awarded a set-aside contract has wilfully violated any provision of this section, the awarding agency [may] shall send a notice to such contractor or subcontractor by certified mail, return receipt requested. Such notice shall include: (A) A reference to the provision alleged to be violated; (B) a short and plain statement of the matter asserted; (C) the maximum civil penalty that may be imposed for such violation; and (D) the time and place for the hearing. Such hearing shall be fixed for a date not earlier than fourteen days after the notice is mailed.

(2) The awarding agency shall hold a hearing on the violation asserted unless such contractor or subcontractor fails to appear. The hearing shall be held in accordance with the provisions of chapter 54. If, after the hearing, the awarding agency finds that the contractor or subcontractor has wilfully violated any provision of this section, the awarding agency shall suspend all set-aside contract payments to the contractor or subcontractor and may, in its discretion, order that a civil

1602 penalty not exceeding ten thousand dollars per violation be imposed
1603 on the contractor or subcontractor. If such contractor or subcontractor
1604 fails to appear for the hearing, the awarding agency may, as the facts
1605 require, order that a civil penalty not exceeding ten thousand dollars
1606 per violation be imposed on the contractor or subcontractor. The
1607 awarding agency shall send a copy of any order issued pursuant to
1608 this subsection by certified mail, return receipt requested, to the
1609 contractor or subcontractor named in such order. The awarding agency
1610 may cause proceedings to be instituted by the Attorney General for the
1611 enforcement of any order imposing a civil penalty issued under this
1612 subsection.

1613 Sec. 33. Section 52 of substitute senate bill 96 of the current session is
1614 repealed and the following is substituted in lieu thereof (*Effective from*
1615 *passage*):

1616 (a) [On] Notwithstanding any provision of the general statutes, on
1617 and after the effective date of this section, no state agency or quasi-
1618 public agency shall execute a contract for the purchase of goods or
1619 services, which contract has a total [value] cost to the state of fifty
1620 thousand dollars or more in any calendar or fiscal year, unless the state
1621 agency or quasi-public agency obtains the written affidavit described
1622 in subsection (b) of this section.

1623 (b) (1) The chief official of the bidder or vendor awarded a contract
1624 described in subsection (a) of this section or the individual awarded
1625 such contract who is authorized to execute such contract, shall attest in
1626 an affidavit as to whether any consulting agreement has been entered
1627 into in connection with such contract. Such affidavit shall be required
1628 if any duties of the consultant included communications concerning
1629 business of such state agency, whether or not direct contact with a
1630 state agency, state or public official or state employee was expected or
1631 made. As used in this section "consulting agreement" means any
1632 written or oral agreement to retain the services, for a fee, of a
1633 consultant for the purposes of (1) providing counsel to a contractor,
1634 vendor, consultant or other entity seeking to conduct, or conducting,

1635 business with the state, (2) contacting, whether in writing or orally,
1636 any executive, judicial, or administrative office of the state, including
1637 any department, institution, bureau, board, commission, authority,
1638 official or employee for the purpose of solicitation, dispute resolution,
1639 introduction, requests for information or (3) any other similar activity
1640 related to such contract. Consulting agreement does not include any
1641 agreements entered into with a consultant who is registered under the
1642 provisions of chapter 10 of the general statutes as of the date such
1643 affidavit is submitted in accordance with the provisions of this section.

1644 (2) Such affidavit shall be sworn as true to the best knowledge and
1645 belief of the person signing the certification on the affidavit and shall
1646 be subject to the penalties of false statement.

1647 (3) Such affidavit shall include the name of the consultant, the
1648 consultant's firm, the basic terms of the consulting agreement, a brief
1649 description of the services provided, and an indication as to whether
1650 the consultant is a former state employee or public official. If the
1651 consultant is a former state employee or public official, such affidavit
1652 shall indicate his or her former agency and the date such employment
1653 terminated.

1654 (4) Such affidavit shall be amended whenever the bidder or vendor
1655 awarded the contract enters into any new consulting agreement during
1656 the term of such contract.

1657 (c) Each state agency and quasi-public agency shall include a notice
1658 of the affidavit requirements of this section in the bid specifications or
1659 request for proposals for any contract that is described in subsection
1660 (a) of this section.

1661 (d) In the event that a bidder or vendor refuses to submit the
1662 affidavit required under subsection (b) of this section, such bidder or
1663 vendor shall be disqualified and the state agency or quasi-public
1664 agency shall award the contract to the next highest ranked vendor or
1665 the next lowest responsible qualified bidder or seek new bids or
1666 proposals.

1667 Sec. 34. Subdivision (19) of subsection (d) of section 2c-2b and
 1668 section 4b-3 of the general statutes are repealed. (*Effective October 1,*
 1669 *2007*)"

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>July 1, 2005</i>	New section
Sec. 2	<i>July 1, 2005</i>	New section
Sec. 3	<i>July 1, 2005</i>	New section
Sec. 4	<i>July 1, 2007</i>	New section
Sec. 5	<i>October 1, 2007</i>	New section
Sec. 6	<i>October 1, 2007</i>	New section
Sec. 7	<i>October 1, 2007</i>	New section
Sec. 8	<i>October 1, 2007</i>	New section
Sec. 9	<i>October 1, 2007</i>	New section
Sec. 10	<i>October 1, 2007</i>	New section
Sec. 11	<i>October 1, 2007</i>	New section
Sec. 12	<i>July 1, 2005</i>	New section
Sec. 13	<i>from passage</i>	4b-91(i)
Sec. 14	<i>from passage</i>	New section
Sec. 15	<i>from passage</i>	New section
Sec. 16	<i>from passage</i>	New section
Sec. 17	<i>January 1, 2006</i>	4a-100
Sec. 18	<i>January 1, 2006</i>	4a-101
Sec. 19	<i>January 1, 2006</i>	4b-91
Sec. 20	<i>from passage</i>	4b-56
Sec. 21	<i>from passage</i>	4b-100a(a) and (b)
Sec. 22	<i>from passage</i>	4b-91(b)
Sec. 23	<i>from passage</i>	New section
Sec. 24	<i>October 1, 2005</i>	New section
Sec. 25	<i>from passage</i>	13a-143d(d)
Sec. 26	<i>from passage</i>	1-92(1)
Sec. 27	<i>July 1, 2005</i>	New section
Sec. 28	<i>from passage</i>	1-210
Sec. 29	<i>from passage</i>	4b-91(d)
Sec. 30	<i>January 1, 2006</i>	4a-60g(a)(1)
Sec. 31	<i>July 1, 2005</i>	4a-60g(f)
Sec. 32	<i>July 1, 2005</i>	4a-60g(k)

Sec. 33	<i>from passage</i>	SB1 96 (current session), Sec. 52
Sec. 34	<i>October 1, 2007</i>	Repealer section